

FILED

FOR PUBLICATION

MAR 01 2012

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FRANCISCO JAVIER GARFIAS-
RODRIGUEZ,**

Petitioner,

v.

**ERIC H. HOLDER Jr., Attorney
General,**

Respondent.

No. 09-72603

Agency No. A079-766-006

ORDER

KOZINSKI, Chief Judge:

Upon the vote of a majority of nonrecused active judges, it is ordered that this case be reheard en banc pursuant to Circuit Rule 35-3. The three-judge panel opinion shall not be cited as precedent by or to any court of the Ninth Circuit.

Judge Christen did not participate in the deliberations or vote in this case.